

381.9169 Executive board members and officers. (Effective January 1, 2011)

- (1) Except as provided in the declaration, the bylaws, or subsection (2) of this section, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board shall exercise ordinary and reasonable care.
- (2) The executive board shall not act on behalf of the association to amend the declaration, to terminate the condominium, or to elect members of the executive board or determine the qualifications, powers, and duties, or terms of office of executive board members, but the executive board may fill vacancies in its membership for the unexpired portion of any term.
- (3) If the executive board adopts a proposed budget for the condominium, the board shall:
 - (a) Provide a summary of the budget to all unit owners within thirty (30) days after the adoption; and
 - (b) Set a date for a meeting of the unit owners to consider ratification of the budget, which meeting shall not be less than fourteen (14) days nor more than thirty (30) days after providing the summary.

The budget shall be deemed ratified, whether or not a quorum is present, unless at that meeting a majority of all the unit owners, or any larger vote specified in the declaration, reject the budget. If the proposed budget is rejected, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board.

- (4) Except as provided in subsection (5) of this section, the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by him or her, may appoint and remove the officers and members of the executive board. Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of:
 - (a) Sixty (60) days after conveyance of seventy-five percent (75%) of the units which may be created to unit owners other than a declarant;
 - (b) Two (2) years after all declarants have ceased to offer units for sale in the ordinary course of business;
 - (c) Two (2) years after any development right to add new units was last exercised; or
 - (d) Seven (7) years after the first unit was conveyed to a unit owner other than a declarant.

A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before termination of that period, but in that event he or she may require, for the duration of the period of declarant control, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

- (5) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the units which may be created to unit owners other than a declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the executive board shall be elected by unit owners other than the declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the units which may be created to unit owners other than a declarant, not less than thirty-three and one-third percent (33-1/3%) of the members of the executive board shall be elected by unit owners other than the declarant.
- (6) Not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least three (3) members, a majority of whom shall be unit owners or owners of equity interests in units. The executive board shall elect the officers. The executive board members and officers shall take office upon election.
- (7) Any provision of the declaration or bylaws to the contrary notwithstanding, the unit owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.

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History: Created 2010 Ky. Acts ch. 97, sec. 35, effective January 1, 2011.